

REMARKS AND ARGUMENTS

Claim Rejections - 35 USC § 102

Claims 1-3, 8-10, 12-25, 27-42 and 44-47 were rejected under 35 U.S.C. 102(a) as being anticipated by Sugimoto et al. (WO 03/010832) (hereafter "Sugimoto WO").

Invention Predating Reference

Applicant resubmits that Sugimoto WO is not prior art. The Declaration of James Ibbetson (dated June 15, 2007) submitted with the previous Reply to the Office Action establishes an actual physical reduction to practice of the invention prior to the Sugimoto WO publication date. The Examiner responded stating, "[t]he evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Sugimoto reference to either a constructive reduction to practice or an actual reduction to practice." Applicant respectfully submits that because Applicant has shown an actual reduction to practice prior to the effective date (i.e., the publication date) of Sugimoto WO, it is not necessary to show diligence. See MPEP 715(b). It would only be necessary to show diligence if the publication date of Sugimoto WO fell between the date of conception and the reduction to practice; however, this is not the case as both the conception and the reduction to practice predate the publication of Sugimoto WO. *Id.* Thus, the Declaration is sufficient to antedate Sugimoto WO.

It has been shown in this and previous replies that Sugimoto WO is not prior art under 102(a), 102(b) or 102(e). For at least the reasons stated above, Applicant respectfully

requests the withdrawal of the rejections of claims 1-3, 8-10, 12-25 and 27-42 based on Sugimoto WO.

Patentable Distinctions over Sugimoto WO

Claims 44-48 that were newly presented in the previous Reply to the Office Action include important distinguishing features over Sugimoto WO. These claims and the accompanying remarks are presented in case, even though Sugimoto WO is not prior art to the present application under 35 U.S.C. 102(a), 102(b) or 102(e), its subject matter has become prior art through some other means unknown to Applicant.

Although Applicant disagrees that Sugimoto WO teaches all the limitations of claim 44, the claim has been amended to more fully describe the subject matter therein. As amended, claim 44 requires a lens element having a substantially uniform distribution of wavelength conversion particles distributed throughout, "wherein the light is transmitted from said lens element into the ambient." In the device of claim 44, light travels through the lens element which contains the wavelength conversion material inside it and is emitted from the lens element into the ambient. Sugimoto does not teach this limitation; instead, Sugimoto WO teaches two elements: a fluorescent member 3 disposed to face the light-outgoing surface (S) and an optical member 4 that is adjacent to the fluorescent member 3. Thus, the light must travel from the fluorescent member 3 into the optical member 4, then into the ambient. The distinction between Applicant's claim 44 and Sugimoto WO is important, because only a single lens element is required to perform both the wavelength conversion and the beam shaping functions in Applicant's claim 44. This may be advantageous when manufacturing the product. For example, it would not be

necessary to match the thermal coefficients of two different adjacent materials.

Furthermore, as previously stated, integrating the wavelength conversion material uniformly with the lens element allows for greater flexibility and customizability when fabricating the lens element. The lens element can easily be manufactured separately to specifications, tested for uniform color and intensity transmission, and then mounted to the light source during packaging. Thus, both the lens element and the light source can be tested separately before combining them in the final package, streamlining the testing process by identifying defective components prior to incorporating them into the final emitter device. These and other advantages emphasize the importance of the structural and functional differences between independent claim 44 and the teachings of Sugimoto WO. For at least the reasons stated above, independent claim 44 and dependent claims 45-47 are allowable.

Claim Rejections - 35 USC § 103

Claims 1, 6 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Carey et al. (US 6,204,523) (hereafter "Carey") combined with knowledge of one of ordinary skill in the art. Although Applicant disagrees with the rejection, claim 1 has been amended to more fully describe the subject matter therein.

Carey combined with knowledge of one of ordinary skill in the art do not teach all of the limitations of claim 1. As amended, Claim 1 teaches an emitter that requires a "conversion material region shaped such that [the] light passing through travels through substantially similar thicknesses of said conversion material region[.]" Support for the amendment may be

found in the Specification as originally filed at paragraph [0044]. This cited structure ensures that the emitted light has a substantially uniform color temperature. The Examiner states that it would have been obvious to one in the art ensure that the emitted light has substantially uniform color. Even if this is true, Carey still does not teach the structure to achieve such color uniformity.

For at least the above stated reasons, claim 1 is allowable. Claims 6 and 7 depend from claim 1 and are also allowable.

Claims 11, 22, 26, 43 and 48 were all rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto WO. As discussed above, Sugimoto WO is not prior art. Furthermore, these claims all depend from allowable independent claims and are, therefore, also allowable.

Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto WO in view of Duggal et al. (US 6,891,330). Claim 5 depends from allowable claim 1 and, as such, is also allowable.

For at least the reasons stated above, Applicant respectfully requests the withdrawal of the rejections of claims 1, 5-7, 11, 22, 26, 43 and 48 under 35 U.S.C. 103(a).

CONCLUSION

Applicant submits that claims 1-3 and 5-48 are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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